

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LONTEX CORPORATION,

Plaintiff,

v.

NIKE, INC.,

Defendant.

Civil Action No.: 18-cv-5623

(Hon. Michael M. Baylson)

**DECLARATION OF MARC E. MILLER IN SUPPORT OF NIKE, INC.'S OPPOSITION
TO PLAINTIFF LONTEX CORPORATION'S MOTION TO AMEND FIRST
AMENDED COMPLAINT AND PARTIALLY DISMISS NIKE'S AMENDED
COUNTERCLAIMS AS TO U.S. TRADEMARK REGISTRATION NO. 3,416,236**

1. I am an attorney, licensed to practice before all courts in the state of New York, an associate at the law firm of DLA Piper LLP (US) and counsel for Defendant NIKE, Inc. ("NIKE").

2. The matters stated herein are based upon my personal knowledge of the facts, or otherwise based upon my review of the files maintained at our firm in the ordinary course of business, and if called upon I could and would competently testify thereto.

3. I make this declaration in support of NIKE's Opposition to Plaintiff's Motion to Amend First Amended Complaint and Partially Dismiss NIKE's Amended Counterclaims as to U.S. Trademark Registration No. 3,416,236.

4. A true and correct copy of Exhibit 93 from the transcript of the November 14, 2019 deposition of Efraim Nathan, in his capacity as Plaintiff's Rule 30(b)(6) designee, is attached hereto as **Exhibit 1**.

5. True and correct copies of excerpts from the transcript of the November 14, 2019 deposition of Efraim Nathan, in his capacity as Plaintiff's Rule 30(b)(6) designee, are attached hereto as **Exhibit 2**.

6. True and correct copies of excerpts from the transcript of the October 25, 2019 deposition of Efraim Nathan are attached hereto as **Exhibit 3**.

7. A true and correct copy of the declaration of Vicki Humphreys is attached hereto as **Exhibit 4**.

8. A true and correct copy of the declaration of Kate Schrader is attached hereto as **Exhibit 5**.

9. A true and correct copy of the March 19, 2010 “Covenant Not To Sue” between NIKE, Inc. and Already, LLC, which was attached as Exhibit A to the Declaration of Erik S. Maurer in Support of NIKE’s Motion to Dismiss Defendant’s Counterclaims Without Prejudice and to Dismiss NIKE’s Claims With Prejudice and filed in *NIKE, Inc. v. Already, LLC*, No. 09-cv-06366-RJS (S.D.N.Y.) (ECF No. 37-2), is attached hereto as **Exhibit 6**.

I declare under penalty of perjury under the laws of United States of America, the foregoing is true and correct.

Executed on January 17, 2020, at New York, New York.

/s/ Marc E. Miller
Marc E. Miller

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of January, 2020, I caused the Declaration of Marc E. Miller in Support of NIKE, Inc.'s Opposition to Plaintiff Lontex Corporation's Motion to Amend First Amended Complaint And Partially Dismiss NIKE's Amended Counterclaims to be filed with the Clerk of Court of the United States District Court for the Eastern District of Pennsylvania using the ECF system, it is available for viewing and downloading from the ECF system, and a true and correct copy was served via ECF to all counsel of record registered with the ECF system.

Date: January 17, 2020

By: /s/ Ben Fabens-Lassen

Ben Fabens-Lassen